

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

JESUS BRIGANTI,	:	
	:	
Plaintiff	:	CIVIL ACTION NO. 3:21-766
	:	
v.	:	(JUDGE MANNION)
	:	
WILKES BARRE POLICE	:	
DEPARTMENT and	:	
GEISINGER SOUTH	:	
WILKES BARRE,	:	
	:	
Defendants	:	
	:	

ORDER

Pending before the court is the report of Magistrate Judge Joseph F. Saporito, Jr., which recommends that the plaintiff's complaint (Doc. 1) be dismissed with prejudice for failure to state a claim upon which relief can be granted. (Doc. 9). The plaintiff has failed to file objections to the report and recommendation.

Where no objection is made to a report and recommendation, the court should, as a matter of good practice, "satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Fed. R. Civ. P. 72(b), advisory committee notes; see also Univac Dental Co. v. Dentsply Intern., Inc., 702 F.Supp.2d 465, 469 (M.D.Pa. 2010) (citing Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987) (explaining judges

should give some review to every report and recommendation)). Nevertheless, whether timely objections are made or not, the district court may accept, not accept, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. §636(b)(1); Local Rule 72.31.

By way of relevant background, the plaintiff, a former pre-trial detainee at the Luzerne County Correctional Facility, filed the instant action, *pro se*, on April 27, 2021. (Doc. 1). Judge Saporito reviewed the complaint and found that it failed to state a claim upon which relief can be granted. As such, by order dated June 9, 2021, the plaintiff was given thirty (30) days within which to file an amended complaint. (Doc. 8). When the plaintiff failed to file an amended complaint in a timely manner, on July 19, 2021, Judge Saporito issued the instant report, in which he recommends that the plaintiff's complaint be dismissed for failure to state a claim upon which relief can be granted pursuant to 28 U.S.C. §1915A(b)(1) and (2). (Doc. 9). Judge Saporito's report and recommendation was returned to the court as undeliverable on August 4, 2021, with a notation that the plaintiff had been released. (Doc. 10).¹

¹ Contrary to L.R. 83.18, the plaintiff has failed to provide the clerk with his current address.

Upon review of Judge Saporito's report and recommendation, the court finds no clear error of record. Moreover, the court agrees with the sound reasoning which led Judge Saporito to his conclusions. As such, the court will adopt the report and recommendation in its entirety.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

- (1) The report and recommendation of Judge Saporito (**Doc. 9**) is **ADOPTED IN ITS ENTIRETY** as the decision of the court.
- (2) The plaintiff's complaint (**Doc. 1**) is **DISMISSED WITH PREJUDICE** for failure to state a claim upon which relief can be granted pursuant to 28 U.S.C. §1915A(b)(1) and (2).
- (3) The Clerk of Court is directed to **CLOSE THIS CASE**.

s/ Malachy E. Mannion

MALACHY E. MANNION

United States District Judge

DATE: August 4, 2021

21-766-01